

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND E. PEYTON,

Plaintiff,

v.

B. CATES,

Defendant.

No. 1:21-cv-00740-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS

(Doc. No. 15)

Plaintiff Raymond Peyton is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 16, 2021, the assigned magistrate judge issued findings and recommendations, recommending that plaintiff's complaint be dismissed. (Doc. No. 15.) Specifically, the findings and recommendations conclude that plaintiff's challenges to his sentence are barred by the favorable termination rule; plaintiff's claims against the judge who sentenced him are barred by judicial immunity; and any claims based on past Supreme Court decisions regarding prison overcrowding are barred because those decisions do not provide plaintiffs cognizable claims for release. (*Id.* at 7–9.) Additionally, with respect to plaintiff's claims involving the alleged conditions of his confinement, the findings and recommendations conclude that plaintiff "does not appear to be bringing any stand-alone Eighth Amendment

1 conditions of confinements claims. Instead, he once again appears to be alleging that, because of  
2 overcrowding, his sentence was unauthorized.” (*Id.* at 10–11.) Lastly, the pending findings and  
3 recommendations point out that plaintiff “has not sufficiently linked the only named defendant,  
4 Warden Cates, to the overcrowding, or any of the incidents allegedly caused by the  
5 overcrowding.” (*Id.* at 11.) The findings and recommendations were served on plaintiff and  
6 contained notice that any objections thereto were to be filed within fourteen (14) days from the  
7 date of service. (*Id.* at 14.) On September 30, 2021, plaintiff filed objections to the pending  
8 findings and recommendations. (Doc. No. 16.) Therein, plaintiff primarily repeats his  
9 arguments that were addressed at length by the findings and recommendations. However,  
10 plaintiff also appears to raise specific concerns about defendant Cates’ failure to follow COVID-  
11 19 prevention measures. (*Id.* at 10) (“Defendant Cates did contradict all state-mandated and  
12 Centers For Disease Control recommended social distancing standards and has again filled all  
13 dorms at plaintiff’s institution to the maximum of 160 inmates making any pretext of social  
14 distancing a farce.”) This is plaintiff’s first mention of these allegations, as they are absent from  
15 his first amended complaint. As such, they lend no support to his objections and are more  
16 appropriately brought in a separately filed action if plaintiff wishes to pursue them.

17 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
18 *de novo* review of the case. Having carefully reviewed the entire file, including plaintiff’s  
19 objections, the court finds the findings and recommendations to be supported by the record and  
20 by proper analysis.

21 Accordingly,

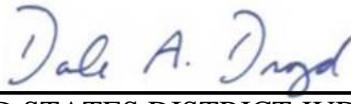
22 1. The findings and recommendations issued on September 16, 2021 (Doc. No. 15)  
23 are adopted in full;

24 2. Plaintiff’s first amended complaint (Doc. No. 14) is dismissed; and

25 3. The Clerk of the Court is directed to close this case.

26 IT IS SO ORDERED.

27 Dated: October 28, 2021

  
28 \_\_\_\_\_  
UNITED STATES DISTRICT JUDGE